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June 18, 2014

Molly C. Dwyer
 Clerk, United States Court of Appeals
 for the Ninth Circuit
 PO Box 193939
 San Francisco, California 94119

RE: *Adams v. United States*, No. 13-72158
 set for oral argument July 7, 2014, in San Francisco

Dear Ms. Dwyer—

Mr. Adams's request for SOS authorization rests on the idea that *Miller v. Alabama*¹ is a "new rule of constitutional law" that has been "made retroactive to cases on collateral review by the Supreme Court" and "was previously unavailable."² Mr. Adams contends that *Miller* is a categorical exclusion from punishment,³ which applies retroactively under the Supreme Court's decision in *Teague v. Lane*.⁴ Courts in this circuit have held two other categorical exclusions from punishment retroactive.

First, in *Pizzuto v. Hardison*,⁵ this Court granted authorization for an Idaho death-row prisoner to file a second or successive § 2254 petition based on *Atkins v. Virginia*.⁶ *Atkins* articulated a categorical exclusion from punishment,⁷ and so the *Pizzuto* court concluded that the statutory authorization criteria were satisfied.

¹ 132 S. Ct. 2455 (2012).

² 28 U.S.C. § 2255 (h)(2).

³ Dkt. #1 at 5.

⁴ 489 U.S. 288 (1989).

⁵ No. 05-77184. (A copy of the order is attached to this letter.)

⁶ 536 U.S. 304 (2002).

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Second, in *Laird v. Schriro*,⁸ the United States District Court for the District of Arizona granted relief to an Arizona death-row prisoner based on *Roper v. Simmons*.⁹ *Simmons*, like *Atkins*, articulated a categorical exclusion from punishment,¹⁰ which the *Laird* court held applied retroactively under an analysis parallel to the framework described in Justice O'Connor's concurring opinion in *Tyler v. Cain*.¹¹ Mr. Adams contends that *Miller* applies retroactively for similar reasons.¹²

Sincerely,

s/Keith J. Hilzendeger

Keith J. Hilzendeger
Assistant Federal Public Defender
Attorney for Movant Adams

CERTIFICATE OF SERVICE

I certify that on June 18, 2014, I caused the foregoing document to be electronically filed with the Clerk of Court for the United States Court of Appeals for the Ninth Circuit using the Appellate CM/ECF system. I further certify that all case participants are registered ECF users and that service will be accomplished by the Appellate CM/ECF system.

s/Keith J. Hilzendeger

Keith J. Hilzendeger
Assistant Federal Public Defender
Attorney for Movant Adams

⁷ See *Moore v. Biter*, 725 F.3d 1184, 1188–89 (9th Cir. 2013).

⁸ No. 2:00-cv-2410-PHX-JAT. (A copy of the order is attached to this letter.)

⁹ 543 U.S. 551 (2005).

¹⁰ See *Moore*, 725 F.3d at 1188–89.

¹¹ Compare Order, *Laird v. Schriro*, at 3–4, with 533 U.S. 656, 668–69 (2001).

¹² Dkt. #1 at 5–6.